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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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08/815,434 03/11/97 PETERSON

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EXAMINER

GM41/0806

ANDERSON, C

ART UNIT

PAPER NUMBER

JIMOTHY A CASSIDY
DORITY & MANNING
P O BOX 1449
GREENVILLE SC 29602-1449

3735

DATE MAILED:

08/06/98

Please find below and/or attached an Office communication concerning this application or proceeding.

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| APPLICATION NUMBER 134 | 03/11/97 DATE | PETERSON FIRST NAMED APPLICANT | ATTORNEY DOCKET NO. 29 |
|------------------------|---------------|--------------------------------|------------------------|

TIMOTHY A. CASSIDY
DORITY & MANNING
P.O. BOX 1449
GREENVILLE SC 29602-1449

QM41/0605

EXAMINER
ANDERSON, C.

ART UNIT 3735 PAPER NUMBER 4

06/05/98

DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☒ Responsive to communication(s) filed on 3/11/97
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-27 are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-27 are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d):
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

- SEE OFFICE ACTION ON THE FOLLOWING PAGES -

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C. W. A. Claims 1 thru ~~27~~ are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no claimed structure or material which would reduce permeability for improving ignition proclivity control of the smoking article thus rendering the claim indefinite.

Where does the permeability reduction occur?

Claims 1, 14, 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hampl Jr. (4,739,775).

As to claims 1 and 14 Hampl, Jr. (775) teaches the use of cellulosic bands which are perpendicular to a longitudinal axis of the wrapper. According to the preferred embodiment the wrapper construction has one band or in the alternative the bands are applied in a plurality of selected zones with width and spacing selected to achieve the desired degree of ignition proclivity and free burn time respectively. See figures 1-4 and column 2 lines 38-53 of Hampl, Jr. (775). It would have been obvious for one of ordinary skill in the art to arrange the bands in the desired position and sequence such that the permeability area changes from zero permeability reduction to a maximum reduction such that the cigarette would extinguish itself if left unattended for a period of time.

As to claim 2 such is taught by Hampl, Jr. (775). See figure 4, columns 2 lines 47-51 of Hampl, Jr. (775).

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As to claim 4, the answer to claim 1 is incorporated herein, Hampl, Jr. (775) teaches such.

See figures 1, 2, 3, and 4 and column 4 lines 30-65 of Hampl, Jr. (775).

C. W. H. ⁶⁻ Claims ¹² 12, 15, 16, 18, 19, and 21-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hampl, Jr. (4,739,775) in view of Musillo (3,903,899).

As to claim 6, Hampl, Jr. (775) teaches the use of bands. Hampl, does not teach the use of ramps to reduce the permeability of the smoking article. Such is taught by Musillo (899). See figures 2, 4 and 5 of Musillo (899). It would have been obvious to one of ordinary skill in the art to thus incorporate ramps with increasing and decreasing ramp sections into the smoking article as taught by Hampl, Jr. (775) by replacing the bands with the ramp sections in order to control the burn rate and also to preclude the cigarette from extinguishing it self when not in use.

As to claim 7, Hampl, Jr. (775) teaches areas of reduced permeability but does not teach areas comprising a film forming solution. Such is taught by Musillo (899). See column 1, lines 55-59 of (899). It would have been obvious for one of ordinary skill in the art to use a film forming solution on the smoking article as taught by Hampl, JR. (775) in order to control the thickness of the layers as desired.

As to claim 8, such is taught by Musillo (899). See column 1 and 2 of (899). The answer to claim 7 is incorporated herein.

As to claim 9 Hampl, Jr. (775) teaches the use of a cellulosic band material comprising a structure defined by a "Burn mode Index". See column 2 of (775). Musillo (889) teaches the use

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of a non-combustible material applied as a spray or painted onto the smoking article. See column 1 of (899).

As to claim 10, Hampl, Jr. (775) teaches the use of a filler material in the form of potassium citrate and anhydrous potassium citrate. See column 5, example 1 of Hampl, Jr. The answer to claim 9 is incorporated herein.

As to claim 11, such is taught by Hampl, Jr. (775). See column 2 lines 54-64 of (775).

As to claim 12, Hampl, Jr. teaches a length of 6 m m. to thus use a length of 4 m m would have been obvious in view of this teaching.

As to claim 15 all of the elements of the invention as claimed has been addressed in claim 1. See answer to claim 1.

As to claim 16 all of the elements of the invention as claimed has been addressed in the answer to claim 2.

As to claim 18 see answer to claim 4.

As to claim 21, see answer to claim 7.

As to claim 22, see answer to claim 8.

As to claim 23, see answer to claim 9.

As to claim 24, see answer to claim 10.

As to claim 25, see answer to claim 11.

As to claim 26, see answer to claim 12.

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As to claim 27 all of the elements of the invention as claimed has been addressed in claim 13.

C. W. A. Claims 3, 5, 13, 17, 19 and ~~20~~ would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112 set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

~~Claims 3, 5, 13, 17, 19 and 20 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.~~

Any inquiry concerning this communication should be directed to Charles W. Anderson at telephone number (703) 305-3473.

Charles W. Anderson
Charles Anderson:bhw

May 28, 1998

John G. Weiss
John G. Weiss
Supervisory Patent Examiner
Group 3700